

AMENDED IN SENATE JUNE 23, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 418

Introduced by Assembly Member Ammiano

February 14, 2011

An act relating to tidelands and submerged lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 418, as amended, Ammiano. Tidelands and submerged lands: City and County of San Francisco: Pier 70.

Existing law grants to the City and County of San Francisco the right, title, and interest of the State of California in and to certain tidelands and submerged lands in trust for certain purposes. Under existing law, the Burton Act, and the Burton Act transfer agreement, the interest of the state in and to the Harbor of San Francisco was transferred in trust to the City and County of San Francisco. The State Lands Commission has jurisdiction over tidelands and submerged lands of the state.

This bill would authorize the State Lands Commission to approve an exchange of trust lands within the Pier 70 area, as defined, subject to specified conditions. The bill would provide that lands exchanged out of the trust are free from the requirements of the public trust, the Burton Act trust, and the Burton Act transfer agreement, and lands to be exchanged are subject to the requirements of the public trust, the Burton Act trust, and the Burton Act transfer agreement.

The bill would provide that the precise boundaries of the lands to be taken out of the trust and the lands to be put into the trust pursuant to the exchange shall be determined by the Port of San Francisco, subject to the approval of the commission. All lands exchanged into the public trust shall be held by the Port of San Francisco.

This bill would authorize the use or lease of historic buildings situated on trust lands for purposes not otherwise consistent with the public trust or the Burton Act trust if specified requirements are met.

This bill would make legislative findings and declarations as to the necessity of a special statute for Pier 70 in the City and County of San Francisco.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The following definitions apply for purposes of
2 this act:
- 3 (a) ~~“BCDC” means the San Francisco Bay Conservation and~~
4 ~~Development Commission established under Section 66620 of the~~
5 ~~Government Code.~~
- 6 (b) ~~“Burton Act” means Chapter 1333 of the Statutes of 1968,~~
7 ~~as amended.~~
- 8 (c) ~~“Burton Act transfer agreement” means that certain~~
9 ~~agreement dated January 24, 1969, between the state and the city,~~
10 ~~relating to the transfer of the Port of San Francisco from the state~~
11 ~~to the city, and any amendments to that agreement in accordance~~
12 ~~with its terms.~~
- 13 (d) ~~“Burton Act trust” means the statutory trust imposed by the~~
14 ~~Burton Act, and any additional restrictions on use and alienability~~
15 ~~created by the Burton Act transfer agreement.~~
- 16 (e) ~~“City” means the City and County of San Francisco, a charter~~
17 ~~city and county, and includes the port.~~
- 18 (f) ~~“Commission” means the State Lands Commission.~~
- 19 (g) ~~“Master plan” means the Pier 70 Preferred Master Plan~~
20 ~~published by the port in April 2010.~~
- 21 (h) ~~“Pier 70 area” means the approximately 69-acre site owned~~
22 ~~by the port commonly known as the Pier 70 area.~~
- 23 (i) ~~“Port” means the Port of San Francisco, acting by and through~~
24 ~~the San Francisco Port Commission.~~
- 25 (j) ~~“Public trust” means the common law public trust for~~
26 ~~commerce, navigation, and fisheries.~~
- 27 (k) ~~“State” means the State of California.~~
- 28 (l) ~~“Tidelands” means tide and submerged lands.~~

1 (m) ~~“Trust” means the public trust or the Burton Act trust, or~~
2 ~~both, as appropriate in the context of its use.~~

3 (n) ~~“Trust lands” means all lands, including tide and submerged~~
4 ~~lands, within the Pier 70 area that are presently subject to the trust.~~
5 ~~Following a trust exchange, trust lands shall include all lands within~~
6 ~~the Pier 70 area that have been impressed with the trust by the~~
7 ~~exchange, and shall not include any lands that have been removed~~
8 ~~from the trust by the exchange.~~

9 (a) *“AC34” means the 34th America’s Cup.*

10 (b) *“AC34 events” means the AC34 sailing regatta and related*
11 ~~*events described in the host agreement.*~~

12 (c) *“BCDC” means the San Francisco Bay Conservation and*
13 ~~*Development Commission established under Section 66620 of the*~~
14 ~~*Government Code.*~~

15 (d) *“Burton Act” means Chapter 1333 of the Statutes of 1968,*
16 ~~*as amended.*~~

17 (e) *“Burton Act transfer agreement” means that certain*
18 ~~*agreement dated January 24, 1969, between the state and the city,*~~
19 ~~*relating to the transfer of the Port of San Francisco from the state*~~
20 ~~*to the city, and any amendments to that agreement in accordance*~~
21 ~~*with its terms.*~~

22 (f) *“Burton Act trust” means the statutory trust imposed by the*
23 ~~*Burton Act, and any additional restrictions on use and alienability*~~
24 ~~*created by the Burton Act transfer agreement.*~~

25 (g) *“City” means the City and County of San Francisco, a*
26 ~~*charter city and county, and includes the port.*~~

27 (h) *“Commission” means the State Lands Commission.*

28 (i) *“Event Authority” means the America’s Cup Event Authority,*
29 ~~*LLC.*~~

30 (j) *“Harbor fund” means the separate fund in the treasury of*
31 ~~*the city established and maintained in accordance with Section*~~
32 ~~*B6.406 of the charter of the city and Section 4 of the Burton Act.*~~

33 (k) *“Historic buildings” means those buildings that have been*
34 ~~*designated as, or meet the standards for, resources contributing*~~
35 ~~*to the historic significance of the Pier 70 Historic District under*~~
36 ~~*federal law.*~~

37 (l) *“Host agreement” means the Host and Venue Agreement*
38 ~~*between the Event Authority and the city setting forth certain*~~
39 ~~*conditions, including completion of environmental review under*~~
40 ~~*the California Environmental Quality Act (Division 13*~~

1 *(commencing with Section 21000) of the Public Resources Code),*
2 *under which the city will act as host city for AC34 events.*

3 *(m) “Lease” means a ground lease or space lease of real*
4 *property, license agreement for use of real property, temporary*
5 *easement, right-of-way agreement, development agreement, or*
6 *any other agreement granting to any person any right to use,*
7 *occupy, or improve real property under the jurisdiction of the port.*

8 *(n) “Master plan” means the Pier 70 Preferred Master Plan*
9 *published by the port in April 2010.*

10 *(o) “Person” means any private person, corporation, limited*
11 *liability company, partnership, joint venture, business entity,*
12 *business trust, association or other private organization or private*
13 *entity, or any governmental entity or agency.*

14 *(p) “Pier 70 area” means the approximately 69-acre site owned*
15 *by the port commonly known as the Pier 70 area.*

16 *(q) “Port” means the Port of San Francisco, acting by and*
17 *through the San Francisco Port Commission.*

18 *(r) “Public trust” means the common law public trust for*
19 *commerce, navigation, and fisheries.*

20 *(s) “San Francisco waterfront” means those lands placed by*
21 *the city under the management, supervision, and control of the*
22 *port.*

23 *(t) “Seawall lot 330” means that certain parcel of real property*
24 *more particularly described as.*

25 *(u) “Secretary’s Standards” means the United States Secretary*
26 *of the Interior’s Standards for the Treatment of Historic Properties*
27 *with Guidelines for Preserving, Rehabilitating, Restoring and*
28 *Reconstructing Historic Buildings.*

29 *(v) “Senate Bill 815” means Chapter 660 of the Statutes of*
30 *2007, as amended.*

31 *(w) “State” means the State of California.*

32 *(x) “Team” means the Oracle Racing Team, successor to the*
33 *BMW Oracle Team, and its successors.*

34 *(y) “Tidelands” means tide and submerged lands.*

35 *(z) “Trust” means the public trust or the Burton Act trust, or*
36 *both, as appropriate in the context of its use.*

37 *(aa) “Trust lands” means all lands, including tidelands, within*
38 *the Pier 70 area that are presently subject to the trust. Following*
39 *a trust exchange, trust lands shall include all lands within the Pier*
40 *70 area that have been impressed with the trust by the exchange,*

1 *and shall not include any lands that have been removed from the*
2 *trust by the exchange.*

3 *(ab) “Trust termination lands” means all lands within the Pier*
4 *70 area that will not be subject to the trust following a trust*
5 *exchange.*

6 *(ac) “Venue” means a site under port jurisdiction that is subject*
7 *to the public trust and that is proposed to be used for AC34 events.*

8 *(ad) “Waterfront land use plan” means the Port of San*
9 *Francisco Waterfront Land Use Plan, including the waterfront*
10 *design and access element, adopted by the port in 1997 under*
11 *Resolution No. 97-50, as amended from time to time.*

12 SEC. 2. The Legislature finds and declares all of the following:

13 (a) The purpose of this act is to facilitate the productive reuse
14 of the lands within the Pier 70 area of San Francisco in a manner
15 that furthers the purposes of the trust. To effectuate this purpose,
16 this act approves and authorizes the commission, subject to the
17 requirements of this act, to carry out an exchange of lands that will
18 place or confirm the public trust or the Burton Act trust on lands
19 within the Pier 70 area with substantial value for the trust, and
20 terminate the public trust and the Burton Act trust in Pier 70 area
21 lands that no longer are useful for trust purposes.

22 (b) The Pier 70 area is one of the most important intact *maritime*
23 *industrial complexes west of the Mississippi. Largely as a result*
24 *of its industrial past, portions of the Pier 70 area are contaminated*
25 *with hazardous substances. The It is the oldest continuously*
26 *operating shipyard on the west coast. For over 150 years, some*
27 *portion of the Pier 70 site has been in use for shipbuilding and*
28 *repair, steel production, and supporting heavy industrial uses.*
29 *With the arrival of the Union Iron Works in the 1880s, the site*
30 *became a major national and international shipbuilding center,*
31 *launching, for example, the first steel-hulled ship built on the*
32 *Pacific Rim. The shipyard at Pier 70, later acquired by the*
33 *Bethlehem Steel Corporation, built both merchant ships and*
34 *warships, and was a major supplier for the United States Navy*
35 *during the Spanish-American War and both world wars. Its*
36 *development was a key step in the spread of industrialization to*
37 *the Pacific Coast.*

38 (c) The Pier 70 area is within the jurisdiction of the port.
39 Preserving the Pier 70 area’s historic resources is one of the port’s
40 goals in its ~~Waterfront Land Use Plan adopted in 1997~~ *waterfront*

1 *land use plan*. In furtherance of that goal, the port has prepared an
2 application to list the Pier 70 area on the National Register of
3 Historic Places and is working with applicable regulatory agencies
4 to prepare a plan to remediate, if necessary, any hazardous
5 substances affecting the Pier 70 area. The master plan incorporates
6 historic preservation and remediating environmental conditions
7 as key objectives for development of the Pier 70 area.

8 (e)

9 (d) The Pier 70 area includes lands that were historically
10 tidelands subject to the public trust as well as historic uplands that
11 were not subject to the public trust. Beginning in 1868, certain
12 Pier 70 area tidelands were conveyed into private ownership by
13 the state pursuant to various state statutes. Portions of those
14 tidelands were subsequently filled and reclaimed. The public trust
15 status of portions of the reclaimed tidelands *within the Pier 70*
16 *area, as well as certain adjacent submerged lands*, is uncertain.
17 Due to various historical circumstances, some of the reclaimed
18 tidelands, including lands located well inland from the current
19 shoreline, may have remained subject to the public trust, while
20 other *lands, including reclaimed tidelands, including lands adjacent*
21 ~~to the shoreline lands along the shoreline, and adjacent submerged~~
22 ~~lands~~, may have been freed from the trust. The

23 (e) The port acquired portions of the Pier 70 area lands, including
24 portions of the historic uplands, as part of the state's grant to the
25 city under the Burton Act. ~~These lands are subject to the Burton~~
26 ~~Act trust.~~ The port acquired the remainder of the Pier 70 area lands
27 from private owners.

28 (d)

29 (f) Absent a trust exchange, substantial portions of the lands
30 within the Pier 70 area that are located along the waterfront or are
31 otherwise of high value to the trust could be sold into private
32 ownership, cut off from public access, and used for purposes
33 inconsistent with the trust. In addition, certain interior lands not
34 useful for trust purposes would be restricted by the trust and could
35 not be used for nontrust uses essential to the revitalization of the
36 Pier 70 area.

37 (e)

38 (g) This act is necessary for the successful revitalization of the
39 Pier 70 area and to realize the resulting public benefits, including
40 continued operation of the existing ship repair yard on

1 approximately 15 acres of the Pier 70 area, the elimination of
2 blight, the remediation of hazardous substances, the establishment
3 of a Pier 70 National Register Historic District and adaptive reuse
4 of approximately 700,000 square feet of historic buildings, the
5 construction of approximately 3,000,000 square feet of new infill
6 development compatible with the historic district predominantly
7 for job-creating uses such as office and technology space, providing
8 some 6,000 to 8,000 new jobs, the creation of approximately 11
9 acres of waterfront open space and an additional nine acres of
10 internal open space, and increased public access to the waterfront.
11 This legislation is also needed to improve the configuration of the
12 trust lands in furtherance of trust purposes.

13 (f)

14 (h) A trust exchange pursuant to this act would result in the
15 configuration of trust lands that maximizes the overall benefits to
16 the trust, without interfering with trust uses or purposes by
17 impressing the entire waterfront within the Pier 70 area, as well
18 as certain interior lands that have high trust values, with the public
19 trust and removing from the trust lands that have been cut off from
20 navigable waters, are no longer needed or required for the
21 promotion of the public trust, and constitute a relatively small
22 portion of the granted lands within the city. This act requires the
23 commission to ensure that the lands added to the trust by the
24 exchange have a monetary value equal to or greater than the
25 monetary value of the lands taken out of the trust.

26 ~~(g) The State Office of Historic Preservation has reviewed the~~
27 ~~port's draft nomination for national historic status of the Pier 70~~
28 ~~area and has preliminarily concurred with the port's conclusion~~
29 ~~that several historic buildings in the Pier 70 area are contributors~~
30 ~~to the proposed Pier 70 Historic District. These contributor~~
31 ~~buildings convey a sense of the Pier 70 area's early maritime~~
32 ~~industrial history, enhance the open-space experience in the~~
33 ~~corridor leading to the waterfront, and should be preserved and~~
34 ~~restored. Uses of the contributor buildings that support their~~
35 ~~preservation and restoration, but that are not otherwise consistent~~
36 ~~with the trust, are authorized under this act.~~

37 ~~(h) This act advances the statewide purpose of public trust and~~
38 ~~is in the best interests of the people of this state.~~

39 (i) *The State Office of Historic Preservation has reviewed the*
40 *port's draft application for listing the Pier 70 area on the National*

1 *Register of Historic Places and the establishment of the Pier 70*
2 *Historic District, and has preliminarily concurred with the port's*
3 *conclusion that several buildings in the Pier 70 area are*
4 *contributors to the proposed historic district. These historic*
5 *buildings are located throughout the Pier 70 area. They convey a*
6 *sense of the Pier 70 area's early maritime industrial history and*
7 *enhance the open-space experience in the corridor leading to the*
8 *waterfront, but are in seriously dilapidated condition. These*
9 *maritime-related historic buildings are resources of statewide*
10 *importance, and their preservation and restoration benefits the*
11 *statewide public and furthers trust purposes by providing*
12 *maritime-related education about the historic resources and their*
13 *contribution to the maritime industry, and providing public access*
14 *to view the historic architectural amenities. This act authorizes*
15 *uses of historic buildings located on trust lands that support*
16 *preservation and restoration of the buildings, maritime-related*
17 *education, and public access to view these historic resources,*
18 *including uses that would not otherwise be consistent with the*
19 *trust, subject to the requirements of this act. This act also provides*
20 *that historic buildings situated on trust termination lands, for so*
21 *long as the buildings remain in port ownership and retain their*
22 *integrity as historic resources, should continue to be managed by*
23 *the port as trust assets and historic resources of statewide*
24 *importance providing maritime-related education and public*
25 *access.*

26 *(j) The successful development and revitalization of the Pier 70*
27 *area requires that land use planning, infrastructure development,*
28 *and management and control of the site as a whole be integrated.*
29 *Both the trust lands and trust termination lands within the Pier 70*
30 *area will be served by common streets, utilities, and other*
31 *infrastructure and public facilities that will need to be constructed*
32 *or improved as part of the development of the Pier 70 area.*
33 *Preserving the historic district will similarly require investment*
34 *in buildings on both trust lands and trust termination lands. In*
35 *addition, the port anticipates substantial investment in the trust*
36 *lands from nontrust sources, including lease revenues from the*
37 *trust termination lands, infrastructure financing district tax*
38 *increment funds, and park improvements funded by city general*
39 *obligation bonds. In light of these unique circumstances, it is in*
40 *the best interest of the state and the trust to allow the port to*

1 *continue to hold and manage the trust termination lands as an*
 2 *asset of the trust, free of public trust and Burton Act trust use*
 3 *restrictions; to require that all revenues or other proceeds*
 4 *generated by the port from the trust termination lands be deposited*
 5 *in the harbor fund; and to permit the use of harbor fund moneys*
 6 *on the trust termination lands to enhance the value to the trust of*
 7 *the trust asset, subject to the limitations set forth in this act.*

8 SEC. 3. (a) The commission is authorized to approve an
 9 exchange of trust lands within the Pier 70 area that meets the
 10 requirements of this act.

11 (b) The commission may not approve the exchange of the trust
 12 lands unless it finds all of the following:

13 (1) The portions of the trust lands or interests in lands to be
 14 exchanged out of the trust have been filled and reclaimed, are cut
 15 off from access to the waters of San Francisco Bay, and are no
 16 longer in fact tidelands or submerged lands or navigable waterways,
 17 are relatively useless for public trust purposes, and constitute a
 18 relatively small portion of the granted lands within the city.

19 ~~(2) The lands or interests in lands to be impressed with the trust~~
 20 ~~have a monetary value equal to or greater than the monetary value~~
 21 ~~of the lands or interests in lands to be exchanged out of the trust.~~
 22 ~~In the event that the monetary value of the lands or interests in~~
 23 ~~lands to be exchanged out of the trust is greater than the monetary~~
 24 ~~value of the lands or interests in lands to be exchanged into the~~
 25 ~~trust, the commission may consider a deposit of funds into the~~
 26 ~~Land Bank Fund established pursuant to Section 8610 of the Public~~
 27 ~~Resources Code to be held solely for acquisition of property, in~~
 28 ~~an amount equal to the difference in value.~~

29 (2) *The lands or interests in land to be impressed with the trust*
 30 *have a monetary value equal to or greater than the monetary value*
 31 *of the lands or interests in lands to be exchanged out of the trust.*
 32 *If the lands or interests in lands to be exchanged into the trust are*
 33 *insufficient to meet the requirement of equal or greater monetary*
 34 *value, the commission may consider a deposit of funds into the*
 35 *Land Bank Fund established pursuant to Section 8610 of the Public*
 36 *Resources Code to be held solely for acquisition of property, in*
 37 *an amount at least equal to the difference in value, of purposes of*
 38 *making the funding required by this paragraph. If the lands or*
 39 *interests in lands to be exchanged into the trust exceed what is*
 40 *necessary to meet the requirement or equal or greater monetary*

1 *value, the lands not needed to meet the requirement may be used*
2 *to satisfy, in whole or in part, the requirement of subdivision (e)*
3 *of Section 9 of this act.*

4 (3) No substantial interference with trust uses and purposes,
5 including public rights of navigation and fishing, will ensue by
6 virtue of the exchange.

7 (4) The lands or interests in lands impressed with the trust will
8 provide a significant benefit to the trust and are useful for the
9 particular trust purposes authorized by this act.

10 (5) The configuration of trust lands within the Pier 70 area, upon
11 completion of the exchange, consists solely of lands suitable to be
12 impressed with the trust.

13 ~~(6) Applicable state agencies have approved a risk management~~
14 ~~plan, a remedial action plan, or other regulatory documents specific~~
15 ~~to the conditions at the Pier 70 area containing standards sufficient~~
16 ~~to protect human health and the environment from hazardous~~
17 ~~substances in the Pier 70 area, the port is in compliance with the~~
18 ~~approved plan, and the port has provided adequate financial~~
19 ~~assurances to ensure continuing compliance with the plan.~~

20 *(6) The appropriate state agencies have approved an*
21 *environmental site investigation and risk assessment of the Pier*
22 *70 area, and agree on subsequent actions and development*
23 *standards needed to ensure appropriate management of potential*
24 *risks through development of a risk management plan, a remedial*
25 *action plan, or comparable regulatory documents specific to the*
26 *conditions at the Pier 70 area, and the port has provided adequate*
27 *financial assurances to ensure performance of any affirmative*
28 *remedial actions required by any such a plan or comparable*
29 *regulatory document; and sufficient liability measures that protect*
30 *the state will be in place upon completion of the exchange.*

31 (7) The final layout of streets in the Pier 70 area shall provide
32 access to the trust lands and be consistent with the beneficial use
33 of the trust lands.

34 (8) Streets and other transportation facilities located on trust
35 lands shall be designed to be compatible with the trust and to serve
36 primarily trust purposes of access to shoreline improvements and
37 shoreline circulation rather than serving nontrust purposes.

38 (9) The San Francisco Port Commission and the city's board of
39 supervisors have approved the exchange.

1 (10) Any surveys or legal descriptions required for the parcels
2 in conjunction with the exchange shall be approved by the
3 commission *or its executive officer*.

4 (11) The exchange otherwise complies with the requirements
5 of this act.

6 (12) The exchange is consistent with and furthers the purpose
7 of the public trust, the Burton Act trust, and this act.

8 (13) The exchange is otherwise in the best interest of the
9 statewide public.

10 ~~(14) The commission may impose additional conditions on the~~
11 ~~exchange authorized by this act if the commission determines that~~
12 ~~these conditions are necessary to protect the public trust.~~

13 *(c) The commission may impose additional conditions on the*
14 *exchange authorized by this act if the commission determines that*
15 *these conditions are necessary to protect the public trust. Those*
16 *conditions may include a requirement that, following the*
17 *completion of remediation of submerged lands immediately*
18 *adjacent to the Pier 70 area, or at any other time that the*
19 *commission determines it is in the best interest of the state, the*
20 *port and commission shall reasonably cooperate in taking all*
21 *necessary actions to impress or confirm the public trust and the*
22 *Burton Act Trust on those submerged lands or portions of these*
23 *lands.*

24 ~~(e)~~

25 (d) For purposes of effectuating the exchange authorized by this
26 section, the commission is authorized to do all of the following:

27 (1) Receive and accept on behalf of the state any lands or interest
28 in lands conveyed to the state by the parties to the exchange
29 agreement, including lands that are now and will remain subject
30 to the public trust and the Burton Act trust.

31 (2) Convey by patent all of the right, title, and interest of the
32 state in lands that are to be free of the public trust upon completion
33 of an exchange of lands as authorized by this act and as approved
34 by the commission.

35 (3) Convey to the city by patent all of the right, title, and interest
36 of the state in lands that are to be subject to the public trust and
37 the Burton Act trust upon completion of an exchange of lands as
38 authorized by this act and as approved by the commission, subject
39 to the terms, conditions, and reservations as the commission may
40 determine are necessary to meet the requirements of this act.

1 ~~(d)~~

2 (e) The exchange authorized by this section may include lands
3 ~~adjacent to~~ *outside of* the Pier 70 area to the extent consistent with
4 the purposes of this act and approved by the commission. Lands
5 outside the Pier 70 area that are impressed with the public trust
6 and the Burton Act trust as part of an exchange authorized by this
7 act shall be deemed trust lands for purposes of this act.

8 ~~(e)~~

9 (f) This act does *not* condition or otherwise limit the authority
10 of the state or the city to undertake a trust exchange or other
11 conveyance authorized by any other law.

12 SEC. 4. The precise boundaries of the lands to be taken out of
13 the trust and the lands to be put into the trust pursuant to the
14 exchange shall be determined by the port, subject to the approval
15 of the commission. The commission is authorized to settle by
16 agreement with the port any disputes as to the location of the mean
17 high tide line in its last natural state, the boundaries of tidelands
18 conveyed into private ownership pursuant to various statutes, and
19 any other boundary lines that the commission deems necessary to
20 effectuate the exchange.

21 SEC. 5. All lands exchanged into the trust under this act shall
22 be held by the port subject to the public trust and the Burton Act
23 trust, and all lands exchanged out of the trust under this section
24 shall be free of the public trust and the Burton Act trust.

25 ~~SEC. 6. An exchange or other agreement made under this act~~
26 ~~is hereby found to be of statewide significance and importance.~~
27 ~~Therefore, an ordinance, charter provision, or other provision of~~
28 ~~local law that is inconsistent with this act does not apply to that~~
29 ~~exchange or agreement.~~

30 SEC. 6. (a) *For so long as the port holds title to the trust*
31 *termination lands, those lands shall be held as assets of the public*
32 *trust, free of any public trust or Burton Act trust use or alienation*
33 *restrictions, but subject to the requirements of this section.*

34 (b) *The port may hold, use, conduct, operate, maintain, manage,*
35 *administer, regulate, improve, sell, lease, encumber, and control*
36 *the trust termination lands and any buildings and improvements*
37 *on the lands, for any purpose, whether or not consistent with the*
38 *trust, subject to the requirements of this section.*

39 (c) *Any revenues or other proceeds received by the port from*
40 *the trust termination lands shall be deposited in the harbor fund.*

1 (d) *The port shall receive fair market value for the lease or sale*
2 *of any trust termination lands or interest in the lands.*

3 (e) *The port may expend moneys in the harbor fund in*
4 *connection with the trust termination lands for the following limited*
5 *purposes:*

6 (1) *The operation, maintenance, management, and*
7 *administration of those trust termination lands under port*
8 *ownership and any buildings, structures, or improvements on those*
9 *lands if any lease by the port of trust termination lands with a term*
10 *of 30 or more years requires the port's lessee to undertake the*
11 *operation, maintenance, management, and administration of the*
12 *lease premises.*

13 (2) *The preservation, rehabilitation, restoration, or*
14 *reconstruction of any historic building on trust termination lands*
15 *in a manner consistent with the Secretary's Standards, for so long*
16 *as the building remains in port ownership.*

17 (3) *Securing or servicing bond or other indebtedness incurred*
18 *for the improvement or construction of streets, utilities, or other*
19 *infrastructure or public facilities that serve the Pier 70 area and*
20 *are located on trust termination lands or on lands immediately*
21 *adjacent to the Pier 70 area.*

22 (4) *Planning, investigation, design, administrative review, and*
23 *entitlement work associated with the development of the Pier 70*
24 *area.*

25 SEC. 7. (a) *Historic buildings situated on trust lands may be*
26 *used or leased for purposes that are not otherwise consistent with*
27 *the public trust or the Burton Act trust if all of the following*
28 *requirements are met:*

29 (1) *The buildings are rehabilitated consistent with the*
30 *Secretary's Standards.*

31 (2) *The uses or leases provide for public access to view the*
32 *interior and exterior historic architectural amenities and other*
33 *amenities that educate the public about the historic buildings and*
34 *their contribution to the maritime history of Pier 70.*

35 (3) *The executive officer of the commission makes a written*
36 *finding that trust uses available could not feasibly provide sufficient*
37 *funds for the restoration and preservation of the building and that*
38 *the uses or leases are part of an overall program that further trust*
39 *purposes.*

1 (b) If a building described in subdivision (a) is used for a
2 nontrust purpose, and is remodeled, renovated, or used in a manner
3 that is inconsistent with the Secretary's Standards, the building
4 shall be put to a trust use from the commencement of the
5 inconsistent remodel, renovation, or use, unless the continued
6 nontrust use is otherwise authorized under the Burton Act.

7 (c) If a building described in subdivision (a) is demolished,
8 subsequent use of the land and any replacement structure shall be
9 consistent with the public trust and the Burton Act trust.

10 (d) Notwithstanding subdivisions (a), (b), and (c), this section
11 does not limit the port's authority under Section 3 of the Burton
12 Act.

13 SEC. 8. The Legislature further finds and declares all of the
14 following:

15 (a) The purpose of this act is also to facilitate the port's
16 implementation of its waterfront land use plan, its capital plan,
17 and the host agreement, subject to required environmental review.

18 (b) The San Francisco waterfront is a valuable public trust asset
19 of the state that provides special maritime, navigational,
20 recreational, cultural, and historical benefits to the people of the
21 region and the state. Deferred maintenance since 1969 has caused
22 deteriorating conditions along the San Francisco waterfront, which
23 has limited the port's ability to fully implement its waterfront land
24 use plan.

25 (c) Pursuant to the San Francisco Administrative Code, the port
26 has developed a capital plan identifying projects necessary and
27 convenient to the improvement, operation, and conduct of the city's
28 waterfront. Projects in the capital plan include the following:

29 (1) Seismic and life-safety improvements to existing buildings
30 and other structures.

31 (2) Rehabilitation, restoration, and preservation of certain
32 historic piers and other historic structures.

33 (3) Structural repairs and improvements to piers, seawalls, and
34 wharves.

35 (4) Remediation of hazardous materials.

36 (5) Stormwater management facilities.

37 (6) Other utility infrastructure.

38 (7) Public access improvements, including improvements within
39 and around the pier sheds and the construction of waterfront plazas
40 and open space.

1 (d) *The estimated cost to implement the port's capital plan is*
2 *approximately \$2.17 billion in 2011 dollars. This amount*
3 *substantially exceeds the projected revenues of the port available*
4 *for these purposes.*

5 (e) *Providing additional mechanisms to finance capital*
6 *improvements to the port's facilities in furtherance of the capital*
7 *plan and waterfront land use plan is a matter of statewide*
8 *importance that will further the purposes of both the public trust*
9 *and the Burton Act trust.*

10 (f) *In February 2010, the BMW Oracle racing team, sailing*
11 *under the burgee of the Golden Gate Yacht Club, won the 33rd*
12 *America's Cup off the coast of Valencia, Spain. The America's*
13 *Cup, which was first awarded in 1851, is the oldest sporting trophy*
14 *in sailing history. On December 31, 2010, the team designated the*
15 *city to host the AC34 events. The team has designated as the*
16 *potential venue for AC34 the San Francisco waterfront area*
17 *generally between the Golden Gate Bridge to the north and Pier*
18 *80 to the south. The team anticipates holding the AC34 match in*
19 *the San Francisco Bay in 2013, with preliminary races worldwide*
20 *beginning in 2011 and in the San Francisco Bay in 2012. The city*
21 *is conducting environmental review of the AC34 match,*
22 *preregattas, and related activities.*

23 (g) *An economic impact study by the Bay Area Council's*
24 *Economic Institute and Beacon Economics released in July 2010*
25 *concludes that hosting AC34 on the San Francisco Bay would*
26 *generate nearly 9,000 jobs and \$1.4 billion in direct spending in*
27 *the San Francisco Bay area and California, and nearly \$1.9 billion*
28 *nationwide. The study reports that the America's Cup is the world's*
29 *third largest sporting competition after the Olympics and soccer's*
30 *World Cup.*

31 (h) *Under the host agreement, the city has agreed to provide*
32 *the team with venues for regattas, team and competitor facilities,*
33 *sponsorship activities, spectator viewing, and ancillary activities,*
34 *subject to completion of environmental review and review and*
35 *approval of the planned facilities for the event. The venues are*
36 *likely to be located on water areas, piers and wharves, and*
37 *waterfront and landside property under port jurisdiction, generally*
38 *from the Golden Gate Bridge to Pier 80. If the project is approved,*
39 *the Event Authority will make capital improvements to certain*
40 *venues, subject to the port's approval, which will correct*

1 *deteriorated facility conditions and increase public access to, and*
2 *use and enjoyment of, trust lands.*

3 *(i) In Senate Bill 815, the Legislature found that certain lands*
4 *within port jurisdiction, including seawall lot 330, have become*
5 *separated from the San Francisco Bay by the Embarcadero*
6 *roadway, were further cut off from the water by light rail tracks*
7 *that were constructed in the median of the roadway, have ceased*
8 *to be useful for the promotion of the public trust and the Burton*
9 *Act trust except for the production of revenue to support the*
10 *purposes of the Burton Act trust, are leased on an interim basis*
11 *for commuter parking or are vacant land, and constitute in the*
12 *aggregate approximately 4 percent of the lands granted to the city*
13 *under the Burton Act, not including lands currently subject to tidal*
14 *action.*

15 *(j) Based on those findings, the Legislature concluded, inter*
16 *alia, that seawall lot 330 was filled and reclaimed as part of a*
17 *highly beneficial plan of harbor development, has ceased to be*
18 *tidelands, constitutes a relatively small portion of the tidelands*
19 *granted to the city, and is not necessary for public trust or Burton*
20 *Act trust purposes. Accordingly, the Legislature freed seawall lot*
21 *330 from the use requirements of the public trust and the Burton*
22 *Act trust through the year 2094. The Legislature further authorized*
23 *the port to enter into nontrust leases for seawall lot 330 for periods*
24 *of up to 75 years.*

25 *(k) The host agreement provides that if the project is approved,*
26 *in consideration of the Event Authority's capital investment in port*
27 *facilities, the port will offer the Event Authority certain long-term*
28 *development rights on port lands equal in value to the Event*
29 *Authority's investment in the venues. The long-term development*
30 *rights include the sale of seawall lot 330, following the removal*
31 *of that parcel from the public trust. The host agreement further*
32 *provides that the sale of seawall lot 330 be for fair market value,*
33 *to be determined based on a prescribed appraisal process and*
34 *indexed annually at 3 percent until title is transferred.*

35 *(l) The Legislature hereby finds and declares that, based on the*
36 *findings made in this act and the findings previously made in*
37 *Senate Bill 815, all of the conditions for terminating the public*
38 *trust as set forth by the California Supreme Court in City of Long*
39 *Beach v. Mansell (1970) 3 Cal.3d 462 have been met as to seawall*
40 *lot 330. The Legislature further finds and declares that seawall*

1 lot 330 is not needed for any trust use for the foreseeable future,
2 that the residual value to the trust of reserving seawall lot 330 for
3 trust uses after the year 2094 is minimal, and that allowing the
4 port to obtain a major investment in waterfront improvements to
5 address its critical capital needs through the sale of seawall lot
6 330 would provide substantially greater benefit to the trust. The
7 Legislature further finds and declares that placing the trust on
8 lands not currently subject to the trust that are situated on or
9 adjacent to the San Francisco Bay in the manner required by this
10 act would provide substantially greater benefit to the trust than
11 would reserving the seawall lot 330 for trust uses after the year
12 2094.

13 SEC. 9. (a) Based on the foregoing findings, the Legislature
14 hereby declares seawall lot 330 to be free of the public trust and
15 the Burton Act trust in perpetuity, and further declares that seawall
16 lot 330 has ceased to be tidelands for purposes of Section 3 of
17 Article X of the California Constitution.

18 (b) All of the state's right, title and interest in seawall lot 330
19 is hereby granted, free of the public trust and the Burton Act trust,
20 to the port. The port shall hold seawall lot 330 as an asset of the
21 trust, free of any public trust or Burton Act trust use or alienation
22 restrictions, but subject to the requirement that all revenues or
23 other proceeds generated on seawall lot 330 be deposited in the
24 harbor fund and used for trust purposes. The port may, on behalf
25 of the state, convey seawall lot 330 or any interest in seawall lot
26 330 to any person, free of the public trust and the Burton Act trust,
27 if the consideration received by the port is equal to or greater than
28 the fair market value of the land or interest conveyed and is used
29 by the port for trust purposes.

30 (c) The consideration received by the port, or any portion of
31 the consideration, may be in the form of improvements to a venue
32 or to other property within the port's jurisdiction and subject to
33 the trust, if, prior to the transfer of title, the commission has found
34 that either the improvement work has been completed or the
35 purchaser has secured the cost of completing the work by a
36 performance bond, cash deposit, letter of credit, promissory note
37 secured by a deed of trust on the property, or comparable security.

38 (d) Transfer of the fee interest in seawall lot 330 in accordance
39 with the terms of the host agreement as it existed on its effective
40 date, and based on the fair market value of seawall lot 330 as

determined by the port, shall be deemed to satisfy the requirements of this section. However, as a condition of any transfer of the fee interest, the commission shall review the appraisals used by the port in determining the fair market value of seawall lot 330 for conformance with the Uniform Standards of Professional Appraisal Practice and approve the valuation methodologies used in the appraisals. If the transfer of the fee interest in seawall lot 330 does not occur by June 30, 2012, the port's determination of the fair market value of seawall lot 330 shall be subject to further review and approval by the commission.

(e) As a condition of any transfer of the fee interest in seawall lot 330, the port shall be obligated to cause the trust to be impressed upon lands situated on or adjacent to the San Francisco Bay that have a total area equal to or greater than the area of seawall lot 330 and have been determined by the commission to be useful for trust purposes. The lands to be impressed with the trust shall be identified by the port and approved by the commission prior to the transfer of title to seawall lot 330, and the port shall cause the trust to be impressed upon those lands within a reasonable period of time thereafter, as determined by the commission.

(f) This section supersedes the requirements of the Burton Act and Senate Bill 815 to the extent that they apply to seawall lot 330.

SEC. 10. This act advances the statewide purpose of the public trust and is in the best interests of the people of this state. An agreement for the sale, lease, or exchange of port property or other agreement made under this act is hereby found to be of statewide significance and importance. Therefore, an ordinance, charter provision, or other provision of local law that is inconsistent with this act does not apply to that sale, lease, exchange, or other agreement.

~~SEC. 7.~~

SEC. 11. (a) Notwithstanding any other law, the requirements of subdivision (f) of Section 10310 of Title 14 of the California Code of Regulations shall be deemed satisfied for any Pier 70 development project requiring a BCDC permit if the city submits in a form acceptable to BCDC an approved development and disposition agreement for the project and city final approval of all necessary amendments to the city's general plan, planning code, and zoning maps, that is consistent with an approved financial

1 *and land use plan for the Pier 70 area as permitted under Charter*
2 *Section B7.310.*

3 (b) This section does not affect BCDC's jurisdiction and
4 authority or its discretion to approve, disapprove, or condition a
5 permit application subject to this section in accordance with
6 applicable law.

7 ~~SEC. 8.~~

8 *SEC. 12.* A deed, patent, agreement, or other instrument
9 executed in furtherance of this act, or an action of the state or port
10 to approve the use, lease, or conveyance of a state or port property
11 subject to this act, or any portion of that property, or to approve
12 project agreements, grant entitlements, or permits, or issue bonds
13 or other indebtedness in connection with the use and development
14 of that property, shall be conclusively presumed to be valid unless
15 held to be invalid in an appropriate proceeding in a court of
16 competent jurisdiction to determine the validity of the agreement
17 commenced within 60 days after the recording of the agreement.

18 ~~SEC. 9.~~

19 *SEC. 13.* (a) An action may be brought under Chapter 4
20 (commencing with Section 760.010) of Title 10 of Part 2 of the
21 Code of Civil Procedure to establish title to any lands conveyed
22 pursuant to this act or by the parties to any agreement entered into
23 pursuant to this act to confirm the validity of the agreement.
24 Notwithstanding Section 764.080 of the Code of Civil Procedure,
25 the statement of decision in the action shall include a recitation of
26 the underlying facts and a determination as to whether the
27 conveyance or agreement meets the requirements of this act,
28 Sections 3 and 4 of Article X of the California Constitution, if
29 applicable, and any other law applicable to the validity of the
30 agreement.

31 (b) For purposes of Section 764.080 of the Code of Civil
32 Procedure and unless otherwise agreed in writing, an agreement
33 entered into pursuant to this act shall be deemed to be entered into
34 on the date it is executed by the executive officer of the
35 commission, who shall be the last of the parties to sign prior to the
36 signature of the Governor. The effective date of the agreement
37 shall be deemed to be the date on which it is executed by the
38 Governor pursuant to Section 6107 of the Public Resources Code.

39 (c) An action may be brought under Chapter 9 (commencing
40 with Section 860) of Title 10 of Part 2 of the Code of Civil

1 Procedure to determine the legality and validity of a deed, patent,
2 agreement, or other instrument executed in furtherance of or
3 authorized by this act, or an action of the port to use, lease, or
4 convey any property, or to approve project agreements, grant
5 entitlements or permits, or issue bonds or other indebtedness in
6 connection with the use and development of that property. Prior
7 to the filing of an action, the Attorney General and the executive
8 officer of the commission shall be provided written notice of the
9 action and a copy of the complaint. An action authorized by this
10 subdivision may be combined with an action authorized by
11 subdivision (a).

12 ~~SEC. 10.~~

13 *SEC. 14.* If a provision of this act, or its application to a person,
14 property, or circumstance, is held invalid by a court, the invalidity
15 or inapplicability of that provision shall not affect any other
16 provision of this act or the application of that provision to any
17 other person, property, or circumstance, and the remaining portions
18 of this act shall continue in full force and effect, unless enforcement
19 of this act as so modified by and in response to that invalidation
20 would be grossly inequitable under all of the circumstances, or
21 would frustrate the fundamental purposes of this act.

22 *SEC. 15.* *Except as expressly provided herein, this act prevails*
23 *over any inconsistent provisions of the Burton Act or the Burton*
24 *Act transfer agreement.*

25 ~~SEC. 11.~~

26 *SEC. 16.* The Legislature finds and declares that a special law
27 is necessary and that a general law cannot be made applicable
28 within the meaning of Section 16 of Article IV of the California
29 Constitution because of the unique circumstances applicable only
30 to the lands described in this act.